

SANTA MONICA MOUNTAINS CONSERVANCY

RAMIREZ CANYON PARK
5750 RAMIREZ CANYON ROAD
MALIBU, CALIFORNIA 90265
PHONE (310) 589-3200
FAX (310) 589-3207



October 20, 2008

Stefanie Edmondson, AICP
Principal Planner
City of Malibu
23815 Stuart Ranch Road
Malibu, California 90265

Comments on Notice of Preparation for a Draft Environmental Impact Report No. 08-003 for Crummer Site Subdivision, 24120 Pacific Coast Highway

Dear Ms. Edmondson:

The Santa Monica Mountains Conservancy (Conservancy) offers the following comments on the Notice of Preparation (NOP) for a Draft Environmental Impact Report (DEIR) No. 08-003 for the Crummer Site Subdivision, 24120 Pacific Coast Highway (PCH). The City owns the approximately 10-acre Malibu Bluffs Park, including the baseball fields, the Michael Landon Community Center, turf and paths, and a large shared parking lot. The Conservancy owns an approximately 84-acre portion of Malibu Bluffs open space, largely consisting of native coastal bluff vegetation, adjacent to the subject 24-acre proposed development site. The Conservancy provided comments on earlier versions of projects on the subject site in letters dated September 6, 2001 and September 23, 1999. It is critical that the ecological, viewshed, and topographic constraints are considered when developing the project design.

Overview of Proposed Project

According to the NOP (p. 11), the project consists of subdividing the site into eight individual lots. Lots 1 through 5 would be developed with single family residences. Lot 6 would be developed with a new private street. Lot A, including the slope adjacent to Pacific Coast Highway, would be maintained by the homeowners' association or Caltrans, which has an easement along the north-facing slope. Lot B would be dedicated to the City and would be developed with a baseball field, to expand the City's Malibu Bluffs Park by two acres. Thirty-five parking spaces would be created along Winter Mesa.

Ecological Value of the Site

The Malibu Bluffs in this area contain a unique assemblage of coastal sage scrub, chaparral,

and coastal bluff vegetation elements that is rare in the Santa Monica Mountains. The vegetated area on the bluffs is highly accessible for public enjoyment (e.g., via trails and the other aesthetic benefits) and it is integral to the ecological viability of a unique component of the park system in the Malibu area of the Santa Monica Mountains. The property also contains a critical portion of the habitat linkage with the greatest long-term viability between the Conservancy's Malibu Bluffs open space and the nearest large block of habitat located just northeast of the Malibu Canyon Road entrance of Pepperdine University.

The Conservancy's DEIR comment letters on the proposed hotel across PCH addressed this habitat linkage to Pepperdine-owned open space, and its alternative closer to Puerco Canyon. If a contiguous band of native habitat is not provided from just east of Pepperdine University's Malibu Canyon Road entrance, across PCH and around the eastern and southern boundaries of the subject property, all available science points to an inevitable substantial decline in both wildlife species and numbers on the Conservancy's Malibu Bluffs property.

Early morning (1:30 a.m. to 4:30 a.m.) traffic volumes on PCH and Malibu Canyon Road permit successful wildlife crossing of these roadways by mammals, bird species sensitive to human presence, and possibly even reptiles. If future road construction occurs on either concerned section of these two roadways, small pipe culverts (24-36 inch) should be installed for reptiles and small mammals.

According to the NOP (pp. 33-34), "[b]ecause the site is essentially surrounded by urban development, the project site does not serve as a migration or movement corridor..." and this issue will not be further examined in the EIR. We respectfully disagree with this conclusion and strongly recommend that the DEIR include a thorough analysis of impacts to wildlife movement for this project. The DEIR would be deficient if it does not address how wildlife move in and out of the subject property. The NOP fallaciously treats the subject property as if it is a biological vacuum.

Need for a Thorough Ecological Constraints Analysis

Any further project processing must be preceded by an ecological constraints analysis. This analysis must include a thorough study of the onsite coastal bluff vegetation and the potential for vegetation restoration on portions of the site. The analysis must also examine how the onsite coastal bluff vegetation contributes to, and is integral to, the habitat system on the adjoining Conservancy property. Likewise the analysis must examine how the onsite habitat contributes to the ecological viability of the entire Malibu bluffs habitat block composed of both public and private land.

The DEIR biological analysis must also specifically identify the contribution of the project site to wildlife movement between the habitat northeast of Pepperdine and the Conservancy's Malibu Bluffs open space. If the DEIR attempts to slough the issue off by saying that the Malibu Hotel will block all wildlife movement, it must justify that conclusion with a detailed mapped figure(s) that unequivocally demonstrates such a conclusion to decision-makers. Any relevant beneficial or detrimental conditions or mitigation measures for the hotel project must be disclosed in full in the DEIR.

Per to the NOP (p. 34), the project site is not designated as Environmentally Sensitive Habitat Area (ESHA) in the maps of ESHA in the Local Coastal Program (LCP), and this issue will not be examined further in the EIR. We recommend that the City reconsider this determination in the EIR. Per the LCP (Local Implementation Plan, 4.3), any area not designated on the ESHA Overlay Map that meets the "environmentally sensitive area" definition is ESHA, and this will be based on a site-specific biological study. The native bluff habitat onsite is similar quality to the ESHA designated on the Conservancy's Malibu Bluffs open space, and it contributes to habitat connectivity to the north and west. If the eastern slope, two south-facing drainages, and southwest corner of the site are ultimately not considered ESHA by the City, the City would set a dangerous precedence on excluding high-quality habitat from ESHA consideration.

According to the NOP (p. 1), the site has been disturbed in the past by weed abatement activities, prior construction, and removal of baseball fields in the northwestern portion of the project site. The ecological constraints analysis, should address when the vegetation was cleared, and whether it was cleared in compliance with the Coastal Act. (Previous coastal development permits [CDPs] for the project site should have been provided to the City as part of the current CDP application.) For example, older photographs of the site show the vegetation covering a larger area than currently shown. (For example, see www.californiacoastline.org, photo No.7948111 from 1979). Also, current aerials of the project site show scattered vegetation in cleared areas of the site, suggesting that the native coastal bluff vegetation would recover if not regularly cleared. It is also not clear why weed abatement is being done and if it is required. If the clearing was unauthorized, that native bluff vegetation that was cleared should be considered ESHA.

Need for Onsite Conservation Easement

As stated above, the site is valuable for wildlife movement and its coastal bluff vegetation, and it is adjacent to the Conservancy's Malibu Bluffs open space. It appears that the currently proposed project would result in development or fuel modification over almost

all but one third of an acre of the project site in the southwest corner. Because of potentially significant impacts to biological and park resources and viewshed resulting from the project, the DEIR must include in the project description or mitigation measures an irrevocable offer to dedicate a conservation easement (or a direct grant of a conservation easement) over the eastern, southern, and southwest portions of the site, as described below.

- 1) A minimum of 100-wide contiguous band of open space along the eastern portion of the property would be included in the conservation easement.
- 2) A minimum of 105-foot wide contiguous band of open space along the southern portion of the property would be included in the conservation easement.
- 3) A contiguous band of open space along the southwest portion of the property and the entire western drainage to the top of the slopes would be included in the conservation easement. More specifically, this area would be bordered on the west by the westerly property line, on the north by the top of the slope (northerly end) of the western drainage, on the east by the top of the slope of the western drainage (approximately 80 feet east of the western property line), and on the south by the property boundary.

This conservation easement should be made in favor of both a public park agency and the City of Malibu. The Mountains Recreation and Conservation Authority is an appropriate agency to accept such conservation easement, with an overlapping easement to the City of Malibu. To provide adequate permanent mitigation, this offer or direct easement must be recorded prior to the issuance of any and all permits, vegetation removal, grading, or construction. These steps are fundamental to guarantee that future impacts to biological resources are avoided, and it would preclude any perceived piece-mealing of the analysis of environmental impacts.

The easements should prohibit all development and other uses, including fencing, grading, accessory structures, stables, equestrian facilities, grazing, and vineyards. The easement(s) would allow Fire Department-required fuel modification and irrigation. Only native plants would be allowed to be planted in the conservation easement area. The accepting agency would also have the right to remove non-native plants, with seven days written notice to the homeowners' association. Although much of this conservation easement would contain fuel modification areas, with the identified permitted and prohibited uses, it could serve to support some wildlife.

Other Impacts to Biological Resources and Malibu Bluffs Park and Open Space Resources

The DEIR should explicitly address the extent of fuel modification necessary for the proposed development, and this must be included in the calculated acres of plant communities to be impacted. Fuel modification must not be allowed on public parkland. The DEIR must address to what extent fuel modification will occur in the native coastal bluff vegetation occurring onsite (especially in the two southward-draining drainages) and offsite. A figure must be included in the DEIR depicting the site plan and fuel modification areas overlain on vegetation communities.

Hawks and other raptors are often observed along PCH in this area and the DEIR prepared for the Civic Center Malibu Bay Company project identified numerous sensitive raptors potentially occurring in this area. The DEIR must address the site's contribution to the network of open space in the downtown Malibu and Malibu Lagoon area and beyond. It must also identify the cumulative loss of foraging and nesting habitat in Malibu and surrounding Santa Monica Mountains for raptors.

The Conservancy is concerned with the anticipated edge effects on the native bluff community of the Conservancy-owned Malibu Bluffs open space. Cats can wreak havoc on native bird communities. The DEIR should consider project elements such as including in the covenants, codes, and restrictions (CC&Rs) the prohibition of cats in the development or only allowing indoor cats, and installing cat impermeable fencing around the immediate development area. This fencing should only be allowed around the immediate development footprint, as it should not serve to impede native wildlife movement through the remaining open spaces onsite.

The Mountains Restoration Trust and others have been actively restoring the habitat at Malibu Bluffs for years. It is critical that the proposed development not contribute to weed problems at the Malibu Bluffs open space. The CC&Rs should prohibit the use of invasive, non-native landscaping. The homeowners' association dues should include fees (which likely would be minimal) for periodic monitoring and weed removal onsite.

The Conservancy requests that the DEIR provide a thorough analysis of the night lighting that will result from the project, and its impacts on the biological resources at the undeveloped areas of Conservancy-owned Malibu Bluffs open space. The DEIR should specify if the proposed ballfield will be lit at night. Appropriate measures should be included in the DEIR to avoid and minimize night lighting impacts on Malibu Bluffs open

space (e.g., limiting night lighting, screening with native vegetation, etc.). The results of this analysis should be included in the aesthetics and biological resources sections of the DEIR.

View Impacts

Development of the subject property also has the potential to substantially degrade the visual resource value of the Conservancy's Malibu Bluffs open space. The DEIR should include a visual impacts analysis showing before and after views from trails in the Conservancy-owned Malibu Bluffs open space and the City's Malibu Bluffs Park, as well as from PCH, and Malibu Canyon Road. As described above, lighting impacts should also be addressed. For anticipated significant aesthetic impacts to these public viewing areas, avoidance and mitigation measures should be considered (e.g., limiting the height of homes per Local Coastal Plan Policy 6.7).

Geology Impacts

The DEIR should thoroughly address the geological constraints onsite. We are aware of a previous study where "evidence of Holocene surface rupture was exposed in trenches across strands of the Malibu Coast Fault." The DEIR should address how the proposed homes are being set back from this or other faults.

Other Comments

The DEIR should address the project's consistency with policies and implementing measures in the Local Coastal Program pertaining to land division, including those for transfer of development credits (e.g., Local Implementation Plan, 15.2.B.).

Thank you for your consideration of these comments. Please maintain our agency on the mailing list for this project. If you have any questions, please contact Judi Tamasi of our staff at the above address and by phone at (310) 589-3200, ext. 121.

Sincerely,

RONALD P. SCHAFER
Chairperson